

5 October 2022

Director,
Corporate Tax Policy Unit
The Treasury
Langton Crescent
Parkes ACT 2600

Consultation: Franked Distributions & Capital Raisings

Dear Director

I missed yesterday's (5 October) Canberra deadline for comment on the draft legislation as I am in the UK and have only just learned about it.

However, it is still 5 October here and I hope you will accept my submission of this brief comment.

My interest in this topic is as a member and trustee of a self-managed superannuation fund. Many SMSFs will be affected as most hold shares that may benefit from franking credits yet to be issued.

The proposed legislation is **retrospective** in its effect, always a bad idea especially for SMSF members who need certainty in managing their retirement income to stay off the pension. Back dating it to 2016 will have the effect of freezing franking credits held by companies but not yet offered to shareholders. Effectively, the Government will be **confiscating** a benefit that SMSF members already earned and expect to be delivered.

It will **inhibit** directors in managing a company's capital in the best interests of its shareholders. Economic and business conditions change and companies must be able to adapt.

It is **vague** and **subjective**. Apparently the ATO will decide if a company's capital raising is not in line with its past practice.

It is **inconsistent** with the long-standing principle and purpose of franking credits to avoid double taxation of dividends.

It is **unclear** why this change is needed. Companies can only provide their shareholders with franking credits on dividends once profits have been made and corporate tax paid.

Thank you for your consideration.



Duncan Fairweather